

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, FEBRUARY 10, 2004
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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NON-DOCKET ITEMS: 27

ADJOURNMENT: 27

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:10 a.m.

Mayor Murphy acknowledged and welcomed the eighth grade U.S. History class from Rancho Del Rey Middle School in Chula Vista.

Mayor Murphy also acknowledged and welcomed Brazilian Ambassador to the United States, Rubens Antonio Barbosa, and our own honorary Consul of Brazil in San Diego, Mr. Nelson da Costa Pereira.

Mayor Murphy recessed the meeting at 11:16 a.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 11:22 a.m. with Council Member Inzunza not present. Mayor Murphy recessed the meeting at 11:24 a.m. to convene the Redevelopment Agency. The meeting was reconvened at 11:28 a.m. by Mayor Murphy with all members present. Mayor Murphy recessed the meeting at 11:30 a.m. to reconvene the Redevelopment Agency. Mayor Murphy reconvened the meeting at 11:36 a.m. with all members present. Mayor Murphy recessed the meeting at 11:59 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:13 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:03 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 4:17 p.m. with all Council Members present. Mayor Murphy recessed the meeting at 4:37 p.m. for the purpose of a break. The meeting was reconvened by Mayor Murphy at 4:41 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 5:52 p.m. into Closed Session immediately following the regular meeting in the twelfth floor conference room to discuss anticipated and existing litigation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present

- (4) Council Member Lewis-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Inzunza-present
- Clerk-Abdelnour (mc/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1: **REFERRED TO CITY MANAGER**

Comment by Henry Olivas requesting Council's assistance in allowing him access into the buildings at Balboa Park to do repair work that he use to do in the past. He asked that Council meet with the Park and Recreation Department Director to make some type of arrangement that will allow this.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:17 a.m.)

PUBLIC COMMENT-2:

Comment by Lori Walton voicing her opposition to the San Diego Zoo's Park Promenade Project.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:17 a.m. – 10:20 a.m.)

PUBLIC COMMENT-3:

Comment by Jolaine Harris suggesting to Council that they consider auditing the organizations that the City gives money to.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:21 a.m. – 10:25 a.m.)

PUBLIC COMMENT-4:

Comment by Noel Neudeck regarding the Housing Authority's violation of the Brown Act for failing to provide documentation to the public with regard to an item on the Housing Authority's agenda last Tuesday that approved \$42 million to purchase bonds for low-income housing. He also informed Council that the Housing Commission's Web Page did not list the meeting of February 3rd.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:29 a.m.)

PUBLIC COMMENT-5:

Comment by Reverend Willie Manley regarding living wage.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:32 a.m.)

PUBLIC COMMENT-6:

Comment by Mignon Sherer regarding the connection between population growth, employment, quality of life and the budget.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:35 a.m.)

PUBLIC COMMENT-7:

Comment by Gregorie Hedgley-Garber regarding her perspective of living in San Diego and certain areas that she feels is not tourist friendly.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. – 10:37 a.m.)

PUBLIC COMMENT-8:

Comment by Samantha Maria Ewing regarding crime and prostitution in District 3.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:43 a.m.)

**PUBLIC COMMENT-9: REFERRED INTERSECTION CONCERNS TO CITY
MANAGER**

Comment by Patricia Granger regarding the struggle to retain Site 653 in the La Jolla Community Plan as designated open space; the abuse of the land use and zoning policies; and her concern regarding the intersection of Torrey Pines and La Jolla Village Drive.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. – 10:47 a.m.)

PUBLIC COMMENT-10:

Comment by Sandy Summers regarding a letter to the President regarding domestic terrorism.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. – 10:49 a.m.)

PUBLIC COMMENT-11:

Comment by Barbara Winton regarding a letter that she provided to Council regarding the Keating building at Fifth Avenue and F Street which has not had earthquake mitigation. She also commented on the issues of parking and traffic that the Ballpark will generate.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. – 10:52 a.m.)

PUBLIC COMMENT-12:

Comment by James Hartline regarding teen prostitution in District 3, the Hillcrest Youth Center and the need to conduct criminal background checks on volunteers under the age of 25.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. – 10:55 a.m.)

PUBLIC COMMENT-13: REFERRED TO CITY MANAGER

Comment by Vince Allen regarding proposed amendments to a current massage law that was on the agenda of the Public Safety and Neighborhood Services Committee last March. His concern was that due to budget problems, this issue might not be heard by Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. – 10:57 a.m.)

PUBLIC COMMENT-14:

Comment by James Lambert regarding the lack of zoning code enforcement as it pertains to the Adult Pornography industry. He also commented on three pornography stores that he feels is in violation of the law.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. – 11:01 a.m.)

PUBLIC COMMENT-15:

Comment by Ron Boshun regarding Council's actions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:01 a.m. – 11:04 a.m.)

PUBLIC COMMENT-16:

Comment by Jim Bell regarding the economy and toxic waste in Mission Bay.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:04 a.m. – 11:07 a.m.)

PUBLIC COMMENT-17:

Comment by Steve McWilliams regarding medical marijuana.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:07 a.m. – 11:10 a.m.)

PUBLIC COMMENT-18:

Comment by Hee Tae Ahn regarding the adoption of a resolution to stop the torture of Falun Gaung practitioners in Yanti, China.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:10 a.m. – 11:13 a.m.)

PUBLIC COMMENT-19:

Comment by Jim Varnadore regarding comments made by Don Stillwell a few months ago. He urged Mr. Stillwell to return as the defender of peoples rights. He also reported that the Hollywood Palms Oversight Committee that was created nearly three years ago received the Year 2003 Award of Excellence from the San Diego Housing Federation for the Committee's work to rescue Hollywood palms.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:14 a.m. – 11:16 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Comment by Mayor Murphy wishing to acknowledge the generous offer of Sunroad Enterprises, and announced that on February 5, 2004, the leadership of Sunroad made a public announcement that they were going to donate \$1,000,000 over the next five years to the San Diego Regional Fire and Rescue Helicopter program to help purchase and operate a helicopter to serve the entire region.

Mayor Murphy wished to add that this year will be the 7th annual Blood Drive and that the Municipal Employees Association set their goal at 500 pints of blood, and hopes to meet and exceed that due to the severe shortage in San Diego. Mayor Murphy noted that all City employees are given leave time to go and donate blood. Yesterday, the blood drive was in the City Administration Building; today it is in the Mission Valley library; on Wednesday it will be at the World Trade Center and the Police Headquarters; Thursday at Balboa Park; and Friday at Ridgehaven Auditorium. Mayor Murphy extended his thanks to the San Diego Municipal Employees Association for making the effort to show people that they not only care about the job they do in serving the public, but they go above and beyond that in terms of public service.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:17 p.m.; 2:21 p.m. 2:22 p.m.)

COUNCIL COMMENT-2:

Comment by Deputy Mayor Atkins regarding that on Saturday night she was able to attend on behalf of the Mayor, San Diego's 16th annual "Learners Recognition Dinner and Awards Ceremony." Deputy Mayor Atkins announced that there have been 1,041 "Learners" that have participated in the program last year alone to help adults learn to read.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:21 p.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

Comment by City Attorney Casey Gwinn regarding that this morning there were a variety of allegations made about various illegalities that allegedly happened with the City Council and the City Attorney. Comments were made about the Housing Authority Agenda last week and that it was somehow a violation of the law. Mr. Gwinn stated that what happened was a change in staff members within the Housing Commission, and the person responsible for the web-site posting of the notice did not get it done. Mr. Gwinn said, "they made a mistake and we apologize for that, but there was no violation of the law. The Housing Authority Meeting Agenda is posted in just about everyplace that could be imagined where it is legally required. It is posted at the Housing Authority Offices on Newton Avenue; posted in their lobby; it's posted downstairs in the City Administration Building; it's posted as well in branch offices located in a whole host of places; posted in the Clerk's Office; the breeze-way downstairs; and is only required to be posted in one place according to the Brown Act. There was no 42 million dollar bond issuance on the agenda last week." The second issue Mr. Gwinn wished to address was to respond to the potential violations related to medicinal marijuana policy, and that the City has no pending lawsuits right now. There have been two lawsuits filed and they have both been dismissed by the Federal Court. Mr. Gwinn further stated that they are very difficult issues to deal with and sadly the State Legislature failed, never clarifying the law on how to deal with medicinal marijuana after Prop 215 was passed. Mr. Gwinn wished to address his staff, constantly hearing that the lawyers in the City Attorney's Office are not doing their job well, or they fail in some way. The trial stats identify that in 2002 the City Attorney's Office won 9 of 11 lawsuits; in 2003 they won 14 cases that went to trial; 100 percent; and in 2004 they won the first two cases, and have prevailed on behalf of the taxpayers. Lastly, Mr. Gwinn expressed that he was very proud of the lawyers in the Trial Unit in the City Attorney's Office that defend the City in litigation.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:23 p.m.- 2:27 p.m.)

ITEM-330: North Clusters at Black Mountain Ranch.

Matter of approving, conditionally approving, modifying, or denying an application for a Street Vacation, Rezone, Vesting Tentative Map, Planned Development Permit to allow the subdivision of a 35.92-acre site to create fifty-nine lots to allow the development of fifty-nine single family dwellings, four property association lots, public improvements and landscaping located adjacent to Camino del Sur, in the northwest corner of the Black Mountain Ranch Subarea Plan in the AR-1-1 (existing) zone (RS-1-11 zone proposed).

(See Planning Commission Report No. PC-04-029/Street and Easement Vacations No. 70693, /Rezone/Vesting Tentative Map No. 4796/Planned Development Permit No. 4795/PTS No. 1463. Black Mountain Ranch Subarea Community Plan. District-1.)

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in subitem A; adopt the resolutions in subitems B & C; adopt the resolution in subitem D to grant the vesting tentative map; and adopt the resolution in subitem E to grant the permit:

Subitem-A: (O-2004-90) INTRODUCED, TO BE ADOPTED ON MONDAY,
MARCH 8, 2004

Introduction of an Ordinance rezoning 37.05 acres, located north of Camino Del Sur, in the Black Mountain Ranch Subarea I plan area, in the City of San Diego, California, from the AR-1-1 zone into the RS-1-11 zone, as defined by San Diego Municipal Code Section 131.0403; and repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997 of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-B: (R-2004-765) ADOPTED AS RESOLUTION R-298899

Adoption of a Resolution certifying that the information contained in the Addendum to Environmental Impact Report No. 96-7902, on file in the office of the City of San Diego, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any

comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the North Clusters at Black Mountain Ranch project;

That pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the office of the City Clerk and incorporated herein by reference;

That pursuant to California Public Resource Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2004-766) ADOPTED AS RESOLUTION R-298900

Adoption of a Resolution certifying that the public street easement located in the Black Mountain Subarea I Plan, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20187-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part thereof, is ordered vacated;

That said street vacations are conditioned upon the dedication of alternate rights-of-way, satisfactory to the City Engineer;

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

Subitem-D: (R-2004-767 Cor.Copy) GRANTED MAP, ADOPTED AS
RESOLUTION R-298901

Adoption of a Resolution granting or denying Vesting Tentative Map No. 4796, for the North Clusters at Black Mountain Ranch Project, with appropriate findings to support Council action.

Subitem-E: (R-2004-872) GRANTED PERMIT, ADOPTED AS RESOLUTION
R-298902

Adoption of a Resolution granting or denying Planned Development Permit No.4795, for the North Clusters at Black Mountain Ranch Project, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

The Planning Commission hearing is scheduled for February 5, 2004. The recommendation of the Commission will be presented by City staff to the Council at the City Council hearing.

Community Planning Group Recommendation:

There is no officially recognized community planning group for this area.

The two adjacent Community Planning Groups have recommended approval of this project.

SUPPORTING INFORMATION:

BACKGROUND:

The North Clusters at Black Mountain Ranch proposes a rezone from the existing AR-1-1 zone to the proposed RS-1-11 zone to facilitate the proposed development of the estate lots, a street and easement vacation, a vesting tentative map and planned development permit to allow the subdivision of the 35.92 acre site into fifty-nine lots for single family development, four property association lots, and to provide for the construction of public and private street improvements, grading and landscaping located in the northwestern corner of the Black Mountain Ranch Subarea Plan, north of Camino del Sur.

There is no officially recognized community planning group for Subarea 1. The Rancho Penasquitos Planning Board has reviewed the project and provided an advisory recommendation. The Rancho Penasquitos Planning Board voted 13:0:0 to approve the project on December 3, 2003. The Rancho Bernardo Community Planning Board, on November 20, 2003, voted 17:0:1 to recommend approval of the proposed project.

The recommendation of the Planning Commission will be presented to the City Council at the public hearing. The Black Mountain Ranch Subarea Plan designates this site for estate residential development and the proposed project is consistent with that designation.

The project is classified as a priority project as defined by the City Storm Water Standards. The project is required to comply with the State Water Resources Control Board Order No. 92-08-DWQ (NPDES General Permit No. CAS0000002). The post development Best Management Practices (BMPs) incorporated into the project consist of site design, source control and treatment.

The North Clusters project proposes 59 single dwelling units on a site designated Moderately Low Residential (1-2 du/ac). In accordance with the Affordable Housing Element of the Subarea Plan, the North Village Development Agreement (12/10/01), and the Black Mountain Ranch North Village project (VTM/PDP 40-0528), ten affordable housing units would be located within and adjacent to the core of the North Village. The 59 proposed residential units, at a density of a1.6 du/ac, is the maximum number of units that could be located at this site.

City staff recommends certification of the Addendum to Environmental Impact Report No. 96-7902, adoption of the Mitigation Monitoring and Reporting Program, adoption of Rezone No. 4797, approval of Street and Easement Vacation No. 70693; Vesting Tentative Map No. 4796, and Planned Development Permit No. 4795.

FISCAL IMPACT:

No cost to the City, all costs are recovered by a deposit account funded by the applicant.

Ewell/Christiansen/JSF

LEGAL DESCRIPTION:

The 35.92-acre project site is located in the northwestern portion of the Black Mountain Ranch Subarea 1 Planning Area (Parcel 18 of Parcel Map 18504).

<u>FILE LOCATION:</u>	SUBITEMS A, B, D & E: LUP- <u>North</u> Clusters at Black Mountain Ranch, 02/10/04 (65)
	SUBITEM C: STRT-J-2960 (39)

<u>COUNCIL ACTION:</u>	(Time duration: 11:23 a.m.- 11:24 a.m.)
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MOTION BY PETERS TO INTRODUCE THE ORDINANCE FOR SUBITEM A, ADOPT THE RESOLUTIONS FOR SUBITEMS B AND C, ADOPT THE RESOLUTION FOR SUBITEM D, GRANTING THE VESTING TENTATIVE MAP, AND ADOPT THE RESOLUTION FOR SUBITEM E, GRANTING THE PERMIT,

WITH DIRECTION TO THE CITY MANAGER TO WORK WITH THE AUDITOR TO CREATE AN ACCOUNT TO RECEIVE THE MONEY FOR THE PUBLIC IMPROVEMENTS ON THIS PROJECT. Second by Frye. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-331: Herbert Kunzel/Robert Mosher House.

Matter of the appeal by Ron and Guadalupe Cohn, from the decision of the Historical Resources Board in approving the historical site designation of property located at 3250 McCall Street in the City of San Diego.

(See City Manager Report CMR-04-026. Peninsula Community Plan Area. District-2.)

TODAY'S ACTION IS:

(R-2004-) GRANTED APPEAL,
ADOPTED AS RESOLUTION R-298910

A motion either granting or denying the appeal and upholding or overturning the action of the Historical Resources Board.

CITY MANAGER'S RECOMMENDATION:

Deny the appeal of Ron and Guadalupe Cohn and uphold the action of the Historical Resources Board to designate the Herbert Kunzel/Robert Mosher House as a Historical Resource Site.

OTHER RECOMMENDATIONS:

Historical Resources Board on November 21, 2003, voted 8-0-1 to designate the Herbert Kunzel/Robert Mosher House under HRB CRITERIA A (Cultural Landscape), B (Historical Person), C (Architecture) and D (Master Architect).

Ayes: Marshall, Delawie, Schwartz, Ahern, Emme, Lynch, Schaefer, Silvas
Abstaining: Chuang

The Peninsula Community Planning Group has been notified of this item and has not submitted a recommendation.

CITY MANAGER SUPPORTING INFORMATION:

BACKGROUND

This item is before the City Council as an appeal of the Historical Resources Board (HRB) decision of November 21, 2003, to designate the Herbert Kunzel/Robert Mosher House as a City of San Diego Historical Resource Site.

The HRB voted 8-0-1 to designate the house based on HRB CRITERIA A (Cultural Landscape), B (Historical Person), C (Architecture) and D (Master Architect). An appeal of the designation was submitted on December 3, 2003, by Attorney Donald R. Worley representing owners Ron and Guadalupe Cohn. The property is located at 3250 McCall Street in the Peninsula Community, Council District 2 .

Property Description

The wood frame house at 3250 McCall Street is a one-story Modernist style house with oriental influences built in 1951. The house was designed by noted architect, Robert Mosher FAIAE. The home's exterior façade is clear all-heart redwood in a vertical board pattern, finished with penetrating oil at the exterior façade that has been allowed to weather naturally. The house employs red cedar shingles with redwood ridge boards at the roof. The house is L-shaped and, together with the garage/utility structure, forms a "U" that encloses a large interior courtyard that was originally a children's play yard. Sweeping roof lines exhibit an oriental flare and project above a primarily glass façade and deck facing east toward the harbor. This continuous deck serves to expand the master bedroom as well as the living, dining and family room spaces. The attached HRB staff report (P-03-190) describes the property in more detail.

Historical Resources Board Review

A historical report requesting designation was prepared and submitted by Robert Mosher FAIAE, without the consent of the property owners. In accordance with Section 123.0202(a) of the Municipal Code, any member of the public may submit a request for designation. Originally scheduled for designation consideration in July 2003, the HRB continued the hearing to October

and again to November 21, 2003, at the owners' request so that their consultant could prepare a rebuttal report. A rebuttal report was prepared by Larry Pierson of Brian F. Smith and Associates and submitted to the City on October 29, 2003 (final version received November 10, 2003). Mr. Pierson's report concluded that the house is not architecturally or historically significant, and is attached as Attachment 6. Staff prepared a memorandum concluding that no compelling evidence had been provided to alter staff's original recommendation to designate the Herbert Kunzel/Robert Mosher House. Staff's analysis was that the house is significant under four criteria as described in staff report P-03-190: HRB CRITERIA A (Cultural Landscape), B (Historical Person), C (Architecture) and D (Master Architect).

On November 21, 2003, the HRB designated the Herbert Kunzel/Robert Mosher House as a Historical Resource Site by a vote of eight votes in favor (Schwartz, Ahern, Delawie, Emme, Lynch, Marshall, Schaefer, Silvas) and one abstention (Chuang) based on the following factual information:

1. The applicant's (Robert Mosher's) historical report dated June 2003.
2. Supplemental report from Larry Pierson dated October 20, 2003.
3. The staff report (P-03-190) dated July 17, 2003.
4. A memorandum dated November 6, 2003 supplementing staff report P-03-190.
5. A field check of the site by HRB members.
6. Photographs submitted by staff.
7. Public testimony provided by the applicant's representative, the owner and owner's representative and interested members of the public.

In acting to designate, the HRB concurred that the site is significant as: one of a group of homes exemplifying Modernist architecture (HRB CRITERIA A AND C); representative of Master Architect Robert Mosher's body of work (HRB CRITERION D); and for its association with first owner Herbert Kunzel who was a historically significant individual in San Diego's history (HRB CRITERION B).

San Diego Municipal Code Appeal Requirements

The San Diego Municipal Code Section 123.0203 provides for appeals of a Historical Resources Board (HRB) decision to designate a site historical to be filed within 10 business days following the HRB decision. Said decision may be appealed by an applicant, owner or interested person. The Code requires the appeal to be in writing, specifying wherein there was error in the decision of the HRB. The City Council may reject historical site designation based on:

- Factual errors in materials of information presented to the HRB;
- Violations of bylaws or hearing procedures; or
- Presentation of new information.

Based on the City Council's evaluation under the above criteria, the Council may by resolution affirm, reverse, or modify the determination of the HRB and make written findings in support of its decision.

Appellant Request

The appellant to the historical site designation of the Herbert Kunzel/Robert Mosher House has submitted an appeal claiming an error in the decision of the Board in that "...facts were brought to the attention of the Historical Resources Board and completely ignored...." In summary, the facts cited in the appeal which the HRB ignored are:

- The house is not representative of the work for which Robert Mosher achieved his reputation.
- The house is not unique among Modernist houses in San Diego.
- The house is not easily visible from the streets adjacent to it.
- Herbert Kunzel is not a significant individual in San Diego's history.

Each of these issues was discussed in the staff report to the HRB, as well as in the supplemental report prepared by Mr. Pierson. The HRB considered all of the information presented to it as indicated above before making its decision. In doing so, the HRB gave weight to compelling arguments which resulted in designation. There has been no new evidence submitted to refute the designation or to show that the information the HRB received was wrong. Therefore, staff recommends that the appeal be denied based on the fact that no material information has been provided in support of the findings that the City Council needs to make in order to overturn the decision of the HRB.

In the event the appellant submits additional information before the City Council hearing date, staff recommends that the City Council refer the information to the Historical Resources Board for consideration. This will allow staff to review the information and make appropriate recommendations for the HRB to consider prior to the City Council taking action on the appeal.

ALTERNATIVES

1. Cultural Landscape Designation

Deny the appeal, and modify the designation to designate the site solely under HRB CRITERION A (Cultural Landscape) as a reflection of the group of buildings on five lots, which demonstrate 90 years of Humanist Modern architecture. This action would require findings by the City Council that Herbert Kunzel's significance to the history of San Diego does not meet the threshold to warrant historic designation under HRB CRITERION B (Historical Person); that the house is not representative of Modernist architecture under HRB CRITERION C (Architecture); and that the house is not representative of Robert Mosher's body of work under HRB CRITERION D (Master Architect). This action could allow more flexibility in the future for any modifications the owner may wish to make to the house (including possible demolition), subject to Site Development Permit and appropriate environmental review processes.

2. Overturn Designation and Require Documentation

Approve the appeal, overturn the HRB action, and require that the appellant produce a photographic survey and as-built drawings of the house and site. The site would not be acknowledged through a designation as a site reflecting the Modernist architectural history of San Diego.

Ewell/Goldberg/TD

LEGAL DESCRIPTION:

The subject property is located at 3250 McCall Street, APN: 532-441-07, and is more particularly described as Block 140 Lot 1 SW 100 FT in the City of San Diego, County of San Diego, State of California.

FILE LOCATION: LUP-Herbert Kunzel/Robert Mosher House, 02/10/04 (65)

COUNCIL ACTION: (Time duration: 4:42 p.m. – 5:46 p.m.)

Testimony in favor by David Marshall, Marie Lia, Scott Moomjian, Homer Delawie, and Otto Emme.

Testimony in opposition by Mike McDade, Ron Cohn, Tim Wilson, and Allan Holmes.

MOTION BY ZUCCHET TO ADOPT THE RESOLUTION TO OVERTURN THE DESIGNATION AND GRANT THE APPEAL. Second by Madaffer. Passed by the following vote: Peters-nay, Zucchet-yea, Atkins-nay, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-332: Pilot Village Selection.

(See City Manager Report CMR-04-027; Planning Commission Report PC-04-010; letter from John W. Chamberlain dated 1/21/2004; and memorandum from Coleen Clementson dated 1/22/2004). Mid City (Normal Heights), North Park, Southeastern San Diego (Encanto), Linda Vista, College Area, and San Ysidro Community Areas. Districts-3, 4, 6, 7, and 8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-810) ADOPTED AS RESOLUTION R-298911

Selecting the following proposals as the first Pilot Villages:

- Mi Pueblo (San Ysidro)
- The Boulevard Marketplace (Mid-City – Normal Heights)
- The Paseo (College Area)
- Village Center at Euclid and Market (Southeastern San Diego – Encanto)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:40 a.m. – 11:59 a.m.;
2:27 p.m. – 4:27 p.m.)

Testimony in favor by Andrea Skorepa, Hector Reyes, Risa Barn, Daniel Coffey, David Flores, Scott Kessler, Noel Neudeck, Ricardo Rabines, Tom Scott, Carlos Vasquez, LeAnn Eldridge, Jacquelyn O'Connor, Cindy Eldred, Barry Simons, Mario Lopez, Terry Plowden, Teddy Cruz, Sherm Harmer, and Vickie Granowitz.

MOTION BY ATKINS TO ADOPT THE RESOLUTION TO DESIGNATE ALL FIVE PROPOSALS AS RECOMMENDED BY THE PLANNING COMMISSION. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-333: Two actions related to Disposition and Development Agreement (DDA) and Associated Actions for the North Park Parking Facility Project.

(See City Manager Report RA-04-01/CMR-04-002. North Park Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-725) ADOPTED AS RESOLUTION R-298903

Approving the Disposition and Development Agreement with Arnold "Bud" Fischer, for the North Park Parking Facility Project in the North Park Redevelopment Project Area; approving the sale of property in the North Park Redevelopment Project Area; and making certain findings with respect to the Disposition and Development Agreement and the sale.

Subitem-B: (R-2004-730) ADOPTED AS RESOLUTION R-298904

Certifying that the Council has reviewed and considered information contained in the Final Environmental Impact Report for the North Park Redevelopment Project and the Secondary Study with respect to the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Arnold "Bud" Fischer, for the development of the North Park Parking Facility in the North Park Redevelopment Project Area.

NOTE: This is a Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of February 10, 2004 for a companion item.

FILE LOCATION: SUBITEMS A & B: MEET

COUNCIL ACTION: (Time duration: 11:28 a.m. – 11:28 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-334: Final Environmental Secondary Study and Eighth Amendment to Redevelopment Plan for the Centre City Redevelopment Project.

(See Centre City Development Corporation Report CCDC-04-11/CCDC-04-19.
Centre City Community Area. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-806) ADOPTED AS RESOLUTION R-298905

Accepting the Environmental Secondary Study prepared for the proposed Eighth Amendment to the Redevelopment Plan for the Centre City Redevelopment Project;

Consenting to a joint public hearing with the Agency on the proposed Eighth Amendment to the Redevelopment Plan for the Project, and authorizing the City Clerk, in cooperation with the Executive Director of the Agency, or designee, to establish the date, time, and place for the hearing;

Declaring that the City Clerk, in cooperation with the Executive Director of the Agency, or designee, publish and mail the notice of joint public hearing on the proposed Eighth Amendment to the Redevelopment Plan, in the manner, and with other documents, as required and established by law.

NOTE: This is a Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency Agenda of February 10, 2004 for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:36 a.m. – 11:36 a.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-335: Issuance of Multifamily Revenue Bonds for Hillside Gardens Apartments.

(See San Diego Housing Commission Report HCR03-100. District-7.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-799) CONTINUED TO TUESDAY, MARCH 9, 2004

Approving the issuance of Bonds by the Housing Authority of the City of San Diego for the acquisition and rehabilitation of Hillside Gardens Apartments, pursuant to Section 147(f) of the Internal Revenue Code of 1986.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:37 a.m. - 11:37 a.m.)

MOTION BY MADAFFER TO CONTINUE TO MARCH 9, 2004 FOR FURTHER REVIEW. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S500: Three actions related to Disposition and Development Agreement with OliverMcMillan for the South Block Lofts Project.

(See Centre City Development Corporation Report CCDC-04-03/04-09. Centre City Community Area. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2004-846) ADOPTED AS RESOLUTION R-298906

Approving the sale of certain property located generally on the block bounded by Sixth Avenue, G Street, Seventh Avenue and Market Street in the Centre City Redevelopment Project area to OliverMcMillan, LLC; approving the Disposition and Development Agreement; and making certain findings with respect to such sale.

Subitem-B: (R-2004-849) ADOPTED AS RESOLUTION R-298907

Approving Centre City Development Permit 2002-51 for the South Block Lofts Project, to construct a mixed-use project consisting of 50 rental apartments located on the northwest corner of the block bounded by "G" Street, 6th Avenue, 7th Avenue, and Market Street within the East Village District of the Centre City Community Plan Area.

Subitem-C: (R-2004-847) ADOPTED AS RESOLUTION R-298908

Certifying that the City Council has reviewed and considered information contained in the Master Environmental Impact Report for the Centre City Redevelopment Project, the Subsequent Environmental Impact Report to the MEIR for the Proposed Ballpark and Ancillary Development Projects, and associated plan amendments, and the Secondary Study with respect to the Proposed Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and OliverMcMillan, LLC; and making certain findings and determinations regarding environmental impacts of the development pursuant thereto.

NOTE: This is a Joint Public Hearing with the Redevelopment Agency. See the Redevelopment Agency agenda of 2/10/2004 for a companion item.

FILE LOCATION: Subitems A-C: MEET

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:29 a.m.)

MOTION BY ZUCCHET TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S501: Appointment of Three-Member Committee to Conduct a Nationwide Search for Our Next City Auditor.

(See memorandum from Mayor Murphy dated 2/3/2004.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-860) ADOPTED AS RESOLUTION R-298909

Establishing an Ad-Hoc Subcommittee of three councilmembers, consisting of Deputy Mayor Atkins and Councilmembers Frye and Madaffer, with Deputy Mayor Atkins to serve as Chairperson of the Subcommittee, to conduct a nationwide search and return to the full City Council with a recommendation for election of a new City Auditor;

Authorizing the Ad-Hoc Subcommittee to expend an amount not to exceed \$25,000 from Fund No. 100, Dept. 050, Org. 100, Acct. No. 422, and Job Order No. 00050, for the purpose of providing the Subcommittee with any consulting or employment recruitment services necessary to complete this assignment.

Aud. Cert. 2400786.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:38 a.m. – 11:39 a.m.)

MOTION BY MADAFFER TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:52 p.m. in honor of the memory of:

Dr. Sharon Grant Henry as requested by Deputy Mayor Atkins, and Lloyd M.
Bucher as requested by Mayor Murphy.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:46 p.m. – 5:51 p.m.)